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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,810	03/26/2004	Hiroshi Ikegami	040894-7020	7939
9629 7590 05/23/2007 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			EXAMINER BURCH, MELODY M	
			ART UNIT 3683	PAPER NUMBER
			MAIL DATE 05/23/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/809,810

Applicant(s)

IKEGAMI ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-19 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-9, 12, 13 and 17 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 10, 11 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29/07 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 8, 9, 12, 13, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-7227408 (JP'408).

Re: claims 1, 3, 8, 9, 12, 13, and 17. JP'408 discloses on pages 3-5 of the instant specification in a brake operating apparatus of a brake apparatus for restricting rotation of a rotating member 32 comprising: an operating lever 12 operably supported in a movable range including a first position permitting the rotating member to rotate regularly and rotate reversely as disclosed in line 25 of pg. 3 and a second position restricting only one of regular rotation and reverse rotation as disclosed in line 5 of pg. 4

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and urged from the first position to the second position in a normal state as disclosed in lines 21-23, and an operation restricting portion contactable with the operating lever at the first position for restricting a movement of the operating lever reaching the second position as disclosed at the bottom of pg. 4, a supporting member or one of the links shown in figure 1 for operably supporting the operating lever, a contact member or one of the other links shown in figure 1 contactable with the operating lever, and an urging member disclosed at the bottom of pg. 4 for urging the contact member to the operating lever wherein the operating lever comprises an operation restricting member for contacting with the contact member via intervening elements at the first position to restrict movement of the operating lever reaching the second position as shown in figure 1 and disclosed at the bottom of pg. 4 of the instant specification. Examiner notes that the third position is disclosed in lines 6-9 of pg. 4

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6, 7, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2005/0145448 to Watanabe et al. in view of US Patent 6533082 to Gill et al.

Re: claim 1. Watanabe et al. show in figures 9 and 10 a brake operating

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apparatus of a brake apparatus for restricting rotation of a rotating member 26 comprising: an operating lever 54' operably supported in a movable range including a first position shown in figure 9 permitting the rotating member to rotate regularly and rotate reversely and a second position shown in figure 10 restricting only one of regular rotation and reverse rotation or particularly rotation in the direction of "L" of the rotating member and urged from the first position to the second position in a normal state or particularly in a normal or energized state of element 72, and an operation restricting portion 57 contactable with the operating lever at the first position for restricting a movement of the operating lever reaching the second position as discussed in paragraph [0060], a supporting member 70 for operably supporting the operating lever, a contact member 73 contactable with the operating lever, and an urging member 72 for urging the contact member to the operating lever wherein the operating lever comprises an operation restricting member 71 for contacting with the contact member via intervening elements at the first position as shown in figure 9 to restrict movement of the operating lever reaching the second position.

Watanabe et al. are silent with regards to the brake operating apparatus being a hand brake operating apparatus.

Gill et al. teach in col. 1 lines 10-15 the use of electric brakes having a hand brake operating apparatus or being manually operated.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electric brake of Watanabe et al. to have been

a hand brake operating apparatus, as taught by Gill et al., in order to provide a means of manually actuating the brake in the case of an electrical failure.

Re: claims 6 and 7. Watanabe et al. show in figures 9 and 10 a brake operating apparatus of a brake apparatus for restricting rotation of a rotating member comprising: an operating lever 57 for operating a brake force in accordance with an operating amount thereof to the rotating member when the operating lever is operated in a predetermined direction, a one way clutch apparatus 54' for permitting only to operate the operating lever operated in the predetermined direction and holding the operating lever at a position in accordance with the operating amount, a release apparatus 71,73 for releasing an operation of the operating lever by the one way clutch apparatus from being restricted, and an operating portion 72, for operating the release apparatus provided at an arm 10 extended to a position capable of being gripped along with the operating lever in operating the operating lever to operate in the predetermined direction.

Watanabe et al. are silent with regards to the brake operating apparatus being a hand brake operating apparatus.

Gill et al. teach in col. 1 lines 10-15 the use of electric brakes having a hand brake operating apparatus or being manually operated.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electric brake of Watanabe et al. to have been a hand brake operating apparatus, as taught by Gill et al., in order to provide a means of manually actuating the brake in the case of an electrical failure.

Re: claims 13 and 17. Watanabe et al. show in figures 9 and 10 a brake operating apparatus comprising: an operating lever 54' for operating a brake apparatus provided at a vehicle and a supporting member 70 for pivotably supporting the operating lever, wherein the operating lever is provided to the vehicle via the supporting member, wherein the supporting member comprises: a ring-like connecting portion or the circumference at the end of element 70 opposite the end shown connected to element 54' outwardly fit to a first frame extended in a predetermined direction of the vehicle and a pivoting movement restricting portion or the circumference of element 70 contacting and shown within element 54', contactable with a second frame extended in a direction different from a direction of the first frame, for restricting pivoting movement of the supporting member around an axis of the first frame by way of frictional contact, as broadly recited. With respect to claim 17, the handle may be one of elements 57, as broadly recited.

Watanabe et al. are silent with regards to the brake operating apparatus being a hand brake operating apparatus.

Gill et al. teach in col. 1 lines 10-15 the use of electric brakes having a hand brake operating apparatus or being manually operated.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electric brake of Watanabe et al. to have been a hand brake operating apparatus, as taught by Gill et al., in order to provide a means of manually actuating the brake in the case of an electrical failure.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2005/0145448 to Watanabe et al. in view of US Patent 6279692 to Seipker et al.

Re: claims 6 and 7. Watanabe et al. show in figures 9 and 10 a brake operating apparatus of a brake apparatus for restricting rotation of a rotating member comprising: an operating lever 57 for operating a brake force in accordance with an operating amount thereof to the rotating member when the operating lever is operated in a predetermined direction, a one way clutch apparatus 54' for permitting only to operate the operating lever operated in the predetermined direction and holding the operating lever at a position in accordance with the operating amount, a release apparatus 71,73 for releasing an operation of the operating lever by the one way clutch apparatus from being restricted, and an operating portion 72, for operating the release apparatus provided at an arm 10 extended to a position capable of being gripped along with the operating lever in operating the operating lever to operate in the predetermined direction.

Watanabe et al. are silent with regards to the brake operating apparatus being a hand brake operating apparatus.

Seipker et al. teach in col. 4 lines 4-7 the use of electric brakes having a hand brake operating apparatus or being manually operated.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electric brake of Watanabe et al. to have been



a hand brake operating apparatus, as taught by Siepker et al., in order to provide a means of manually actuating the brake in the case of an electrical failure.

***Allowable Subject Matter***

7. Claims 4, 5, 10, 11, 14, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 1/29/07 have been fully considered but they are not persuasive.

Examiner has considered the amendments to the preamble of claims 1, 6, and 13. The 102 rejections of those claims have been withdrawn in light of the amendments. However, new rejections using Watanabe et al. in view of Gill et al. and Siepker et al. have been presented as set forth above.

With regards to claim 6, Applicant argues that Watanabe does not include an operating lever that is gripped. Examiner notes that the combination of Watanabe in view of Gill or Seipker teaches the claimed limitation because the apparatus in the teaching references are manually operated. Applicant also argues that the parking brake locking mechanism 16 of Watanabe is operated when the electric brake is not being applied. Examiner notes that the locking of the rotating member is, in itself, a braking mechanism. Since locking the rotating member against movement is a form of

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braking, Examiner maintains that Watanabe et al., as modified, teaches the limitation as broadly recited.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb  
May 10, 2007

*Melody M. Burch*  
*Melody Burch*  
*Primary Examiner*  
5/10/07